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TO
ATTENTION : Jon Weber
ART UNIT : 1651
FAX NUMBER : 703 872-9306

RE
SERIAL NO. : 10/074116
APPLICANT : Jon Weber et al.,
FILED : 12 December 2002
FOR : CHOLESTEROL DESATURASES

RESPONSE TO RESTRICTION REQUIREMENT

13 January 2004

Attached please find:

- Response to Restriction Requirement

Respectfully submitted,


Theodore Gottlieb, PhD
Registration Number 42,597

Atty's Docket: 101141-12

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO.	10/074116
APPLICANT	German VALCARCE
FILED	12 December 2002
EXAMINER	Jon Weber
ART UNIT	1651
FOR	CHOLESTEROL DESATURASES FROM CILATES, METHODS AND USES

Hon. Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

13 January 2004

RESPONSE AND ELECTION

Sir:

This communication is responsive to the office action of 15 December 2003.

Entry of any amendments remarks is respectfully requested.

Atty's Docket: 101141-12

CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this response is required, Applicants request that this be considered a petition therefore. Please charge the required fee to Deposit Account No. 14-1263.

ADDITIONAL FEES

Please charge any further insufficiency of fees, or credit any excess to Deposit Account No. 14-1263.

REMARKS

In response to Examiner's 8-way restriction requirement, the Applicants provisionally elect, with traverse, Group I that encompasses claims 1-3.

Arguments in Favor of Traversal

Group I and Group II should not be restricted. It is not reasonable to suggest that the method of group II is not narrowly tailored so that it requires the use of Group II. Conversely, the claimed method must be encompassed by any use of Group I extracts to produce the desired cholesterol metabolites. Thus, using the guidelines in MPEP § 806.5(h), the restriction of groups I and II should be withdrawn.

806.05(h) Product and Process of Using

A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process.

Therefore it is requested that Groups I and II be examined together.

Atty's Docket: 101141-12

Similarly, Groups I and II should be examined together with Groups VI and VII, methods of purifying the enzyme activities. Purifying the enzyme almost certainly begins with isolating the activity from cell extracts.

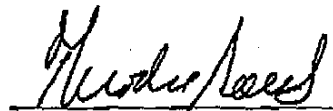
Even recombinant technology will depend on this method. It is very likely that the enzyme will first have to be purified to obtain enzyme of sufficient purity to provide amino acid sequence information as a prerequisite to isolate the genes. Therefore, the claimed cell extracts, and the methods for purifying the enzymes are mutually interdependent and should be examined together.

CONCLUSION

In sum, it is respectfully suggested that all claims encompassed by Groups I, II, V and VI are mutually interdependent to the extent that one cannot practice the purifications without the cell extracts in Group I. Thus, these groups are properly examined together.

Respectfully Submitted,

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